

H. M. Morton

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File

DEPARTMENT OF STATE

Memorandum of Conversation

CONFIDENTIAL

DATE: June 5, 1953

SUBJECT: Professional Clauses in Japanese Peace Treaty

PARTICIPANTS: Senator Bourke B. Hickenlooper, Chairman, Foreign Relations Committee on Commercial Treaties;

Mr. Carl Marcy

Mr. Ben H. Brown

COPIES TO:

L - Mr. Phleger
E - Mr. Waugh
NA - Mr. Hemmendinger
CP - Mr. Walker
H - Mr. Morton

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY *[Signature]* DATE 9-30-80

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In accordance with a decision reached at a meeting in Mr. Phleger's office on Wednesday, June 3, I saw Senator Hickenlooper today to discuss the possibility of his agreeing to and proposing the attached draft reservation to the Japanese FCN Treaty.

Senator Hickenlooper, before I could even mention the subject of the meeting, asked to see the Japanese FCN Treaty and the provision on professions. Mr. Marcy handed him a copy and pointed out Article VIII, paragraph 2. Senator Hickenlooper read the language of the first three lines of this provision aloud and then said "that language must come out".

I then showed Senator Hickenlooper a copy of the draft reservation and suggested that he might wish to meet the problem by proposing this draft.

Senator Hickenlooper replied that he wasn't very sure of reservations, that he wasn't convinced they would do the job, that if the language was in the treaty he was afraid it would subsequently be put into effect despite a reservation. I then pointed out that the proposed reservation was so drafted as to preclude that possibility, since it would require an exchange of notes between the contracting parties. I further pointed out that in my judgment nothing could be more effective than a reservation since it pointed up the problem and the view of the Senate. Senator Hickenlooper replied that he still wouldn't be satisfied with a reservation. Furthermore, he said, he will not be satisfied with removing the provision in the treaty only with respect to lawyers. He referred to his belief that several State constitutions and some State laws prohibited the practice of medicine by anyone not a citizen. He stated emphatically that he did not want to override any State

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constitutional provisions or statutes, and therefore wanted all professions excluded.

Senator Hickenlooper then launched into a tirade against the State Department for negotiating this provision in the Japanese Treaty after having full warning of his views and of the views of others on the Hill in connection with the Israeli Treaty. He said in effect that the Department had gone into this with its eyes open and now it must extricate itself.

I pointed out, be that as it may, that a renegotiation would involve several problems. First, it would probably delay matters so that the treaty could not be considered by the Senate this year, and, second, it might lead to an attempt on the part of the Japanese to reopen other provisions of the treaty with which we were well satisfied.

Finally the Senator suggested that since he was speaking only from his own standpoint, it might be a good idea for the Subcommittee to meet early next week and discuss this problem. Mr. Marcy suggested that it might be a good idea to have Mr. Phleger meet with the Subcommittee, particularly with reference to the question of the effectiveness of a reservation. Senator Hickenlooper agreed with this suggestion.

It was left that Mr. Marcy and I will get together and arrange a time for a meeting of the Subcommittee early next week.

Comment: I believe that, if the Department is willing to do so, the Subcommittee, including Senator Hickenlooper, could be persuaded to accept a reservation containing substantially the language in the Danish Treaty on this subject.

B. H. B.
Ben H. Brown, Jr.
Deputy Assistant Secretary

Attachment:

Copy of draft
reservation.

H:BHB:fg

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7/____
Rev _____
cc _____

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Resolved (Two-thirds of the Senators present concurring therein)

That the Senate advise and consent to the ratification of Executive ___,
83d Congress, 1st Session, a treaty of friendship, commerce, and navigation between the United States and Japan, signed at Tokyo on
April 2, 1953, subject to the following understanding to be set forth
in an exchange of notes between the High Contracting Parties so as
to make it plain that it is understood and accepted by each of them:

Inasmuch as lawyers are vested with special responsibilities
of a public character, the provisions of Paragraph 2 of Article VIII
of the said treaty shall not be construed to affect applicable legislation now or hereafter in force which restricts the practice of law
to citizens of the country.